

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. LA CV18-10243 JAK (KSx)

Date March 4, 2019

Title Imperials Car Club v. Charles Christopher Montoya, et al.

Present: The Honorable JOHN A. KRONSTADT, UNITED STATES DISTRICT JUDGE

Andrea Keifer

Alex Joko

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Steven Lauridsen

Not Present

Proceedings: PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION (DKT. 11)

**PLAINTIFF'S APPLICATION FOR DEFAULT JUDGMENT AND
PERMANENT INJUNCTION AGAINST DEFENDANTS (DKT. 29)**

The motion hearing is held. Plaintiff's counsel reports that he has had no recent communications with Defendants or the counsel with whom he has communicated previously in connection with this action. That counsel did not enter an appearance in this action.

The Court states its tentative views that it is inclined to grant Plaintiff's Application for Default Judgment and Permanent Injunction Against Defendants (the "Default Judgment Motion") and that, as a result, Plaintiff's Motion for Preliminary Injunction (the "Preliminary Injunction Motion") would be moot. The Court states that both the procedural and substantive requirements for the entry of default judgment have been shown.

The Court discusses the *Eitel* factors, *see Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986), and concludes that they support this result. As to the substantive merits of Plaintiff's claims and the sufficiency of the Complaint, those factors are met because the Complaint adequately alleges that Plaintiff is the owner of two registered trademarks and one common law trademark and that Defendants' unauthorized use of these marks creates a likelihood of confusion. *See* Complaint, Dkt. 1 ¶¶ 7-8, 28, 56-64. Defendants' alleged unauthorized use includes use of Plaintiff's marks to: (i) "exhibit[] cars at events or sponsoring events for car enthusiasts," *id.* ¶ 56; (ii) "continue to sell merchandise bearing Plaintiff's Imperials Car Club Marks without authorization," *id.* ¶¶ 57, 70; and (iii) "exhibit[] placards bearing Plaintiff's Imperials Car Club Marks on lowrider vehicles without Plaintiff's approval," *id.* ¶ 58. For these reasons, and because the remaining *Eitel* factors are satisfied, Plaintiff has shown that its claims under Sections 32 and 43 of the Lanham Act and the California Unfair Competition Law are sufficient to warrant entry of default judgment.

The Court also states that the requirements for the entry of the requested permanent injunctive relief, *see* Proposed Order, Dkt. 29-4, have been satisfied. Further, there are sufficient allegations as to the basis for personal jurisdiction over Defendants to warrant the entry of judgment; provided, however, this determination is without prejudice to Defendants' ability to seek to challenge the basis for that

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jurisdiction in connection with a future enforcement proceeding. The Court also states that it will separately consider an application for an award of fees and costs to Plaintiff.

Plaintiff's counsel addresses the Court. The Court adheres to its tentative views that **GRANTS** the Default Judgment Motion; provided however, Plaintiff shall file an application for fees and costs in the form required by the Court's Standing Order no later than March 18, 2019. Following receipt of that application, the Court will enter judgment providing: (i) permanent injunctive relief with respect to Defendants' actions, as identified in Plaintiff's proposed order, Dkt. 29-4; and (ii) awarding reasonable fees and costs in an amount that is supported by the application. The Preliminary Injunction Motion is **MOOT**.

IT IS SO ORDERED.

Initials of Preparer _____ : _____ 07
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